

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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|                              |           |                  |
|------------------------------|-----------|------------------|
| IN RE: JEFFREY MICHAEL TERRY | Case No.: | 18-30479-KRH     |
|                              | Chapter:  | 7                |
|                              | Trustee:  | Harry Shaia, Jr. |

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**RESPONSE TO MOTION FOR 28 U.S.C. §1927 SANCTIONS**

COMES NOW, Jimmy Wayne Strickland, Creditor, (hereinafter “Strickland”) by and through his counsel, Tammy L. Sossei, and files this Response to Motion for 28 U.S.C. §1927 Sanctions. In support of this Response, Strickland respectfully states as follows:

**Facts**

1) Admitted that Strickland filed a Motion for Extension of Time and Permission to File Late Objection to Discharge (hereinafter “Strickland’s Motion”) on June 12, 2018, which was withdrawn on October 29, 2018.

2) Admitted.

3) Admitted.

4) Admitted that Debtor’s third attorney filed an objection to Strickland’s Motion alleging certain defenses to the motion on June 26, 2018. Strickland makes no admittance as to the validity of such defenses as Strickland’s Motion has been withdrawn.

5) Admitted.

6) Admitted.

7) Denied inasmuch as it is attempting to accuse the undersigned of failing to comply with Local Rule 9013-1(F), which requires that Counsel confer prior to a hearing being scheduled. As Debtor had had a second attorney withdraw just prior to the 341 hearing in May, and the undersigned had no way of knowing whether Debtor would retain new counsel, there was no

counsel with whom to confer. As the undersigned did not want to disadvantage a possibly *pro se* litigant, a hearing on Strickland's Motion was not scheduled at the time of its filing.

8) Admitted.

9) Admitted.

10) Admitted

11) Denied as to any insinuation that the undersigned was not responding promptly.

There was 31 minutes between the email requesting another date and the undersigned's response.

12) Admitted.

13) Paragraphs 13 – 16. The undersigned can neither admit nor deny Debtor or Debtor's Counsel's beliefs or states of mind. The fact is that Mr. Foster is Debtor's third attorney. The Court's Docket Text shows a litany of filings characteristic of a "non-standard" Chapter 7 Bankruptcy Case, including, but not limited to: multiple 341 hearings; Debtor has filed to dismiss his case and withdrawn that filing; the US Attorney's Office has made an appearance; the Interim Trustee has hired counsel; Debtor's prior attorney's fees were returned; and motion for relief from stay. Review of the recorded 341 Meeting, prior to Strickland's Motion having been filed, at which the undersigned was present would reveal that Debtor's initial reaction to the undersigned's mere presence was adversarial. The attached text messages sent from Debtor to Strickland on June 3, 2018, are indicative of the animosity Debtor harbors toward Strickland. See attached Exhibit A. Ergo, the undersigned can make no inferences whatsoever as to Debtor's state of mind concerning the biased feelings toward the undersigned and Strickland.

14) Debtor's Counsel filed the Motion for Sanctions on October 25, 2018, without a) ascertaining the undersigned's position on the withdrawal of Strickland's Motion, nor b) complying with Local Rule 9013-1(F) concerning the outstanding issue or the hearing date.

15) Strickland's Motion was withdrawn on October 29, 2018.

16) On October 26, 2018, the undersigned received an email from Debtor's Counsel, which quickly evolved into Debtor's Counsel demanding money in exchange for not filing additional motions. Email chain attached here to as Exhibit B.

17) On November 15, 2018, the undersigned received another email from Debtor's Counsel, which again quickly evolved into Debtor's Counsel demanding money in exchange for not filing additional motions. Email chain attached here to as Exhibit C.

### **Argument**

#### **I. There is no willful bad faith or vexatious conduct.**

18) 28 USC §1927 allows the Court to punish an attorney "who so multiplies the proceedings in any case unreasonably and vexatiously..." There are no adversary proceedings in this case. Therefore, litigation has not been multiplied.

19) In this case, the undersigned filed one motion for an extension of time in which to file another motion. The undersigned did not, without requested permission, file the outright objectionable and otherwise late objection to dischargeability. Furthermore, due to Debtor's history of firing attorneys, the undersigned did not immediately set Strickland's Motion for hearing for fear of needing to immediately have to continue it upon a newly hired attorney requesting a continuance. This was out of respect for the Court and not wanting to take advantage of an as then *pro se* litigant.

20) When approached about withdrawing Strickland's Motion or scheduling a hearing, the undersigned's response can be summarized as not being willing to dismiss because of the history of the case. Counsel then agreed on a date. The undersigned did not notice Strickland's

Motion in the hopes that in the meantime things would sort themselves out with the Trustee's Office and/or there would be some other resolution/withdrawal to the issue.

21) The undersigned continued to cooperate with Mr. Shaia's office in providing information concerning the assets involved in the Strickland Motion and those being sold on the internet, including providing information at Mr. Shaia's request to Mr. Shaia's attorney.

22) The case has not been discharged, not because of any action of the undersigned, but because the Trustee has taken an interest in any proceeds that may/may not result from any malpractice action Debtor has against a prior civil attorney. Therefore, the time that this case has been pending is not the direct result of the undersigned's actions, but of Debtor's own outside claims against his own prior attorneys. There has been no delay in the case closing as a result of the undersigned's actions.

23) Strickland's Motion was withdrawn on October 29, 2018. As noted in Exhibits B and C, Debtor's Counsel still has to have his proverbial "pound of flesh". While the Motion for Sanctions cannot be stated as unduly delaying the Debtor's case, the rationale behind the motion is certainly vexatious. Certainly, the tone of the messages to Strickland mentioning the undersigned, as well as the behavior of Debtor toward the undersigned at the 341 implies that the Motion for Sanctions may be an attempt to yet another person reimburse him for any financial outlay for his bankruptcy.

24) Debtor's Counsel cites no authority from the 4<sup>th</sup> Circuit to provide this Court for a reasonable basis for awarding Debtor Sanctions in this case. Debtor's Counsel further cites no cases in any jurisdiction akin to the instant case, which is that two opposing counsel had different views of the law. Different views of the law are the fundamental reasons courts and judges have full dockets. It is not grounds for filing sanctions against one another.

**II. There are no damages.**

25) Debtor's Counsel filed Disclosure of Compensation on July 13, 2018, stating that he received \$600 for the representation in any dischargeability actions.

26) No Dischargeability actions have been filed in this case, nor has Debtor's Counsel filed any revised/updated Disclosure of Compensation.

27) At this point, Debtor has been refunded the fees paid to the first two attorneys. Therefore, the entirety of the fees paid by Debtor, or on Debtor's behalf, as disclosed to the Court, for the entire Chapter 7 is \$600.

WHEREFORE, your Creditor and his counsel pray that this Honorable Court dismiss the Motion for 28 USC §1927 Sanctions; and for such other and further relief as this Court deems appropriate.

Respectfully Submitted,

/s/ Jimmy Wayne Strickland  
Jimmy Wayne Strickland

Date: November 21, 2018

By: /s/ Tammy L. Sossei, Esquire  
Tammy L. Sossei, Esquire  
VSB # 79085  
Attorney(s) for Creditor  
SOSSEI LAW, P.C.  
4114 E. Parham Road, Suite C  
Richmond, Virginia 23228  
(804) 593-4141  
(804) 510-0585 Fax

CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the foregoing was served on this 21st day of November, 2018 via electronic delivery on all necessary parties.

/s/ Tammy L. Sossei  
Tammy L. Sossei, Esq.



... AT&T LTE 2:45 PM  
Dennis Details

Hi Jim. Sorry about your fall.  
Should drink so much. What  
was you BAC upon admission?  
Anyway heard you had taken a  
personal interest in my  
otherwise uninteresting  
bankruptcy case.

Unlike your..what was it...four?  
Mine is legitimate!

You should put your interests  
somewhere...more...productive..  
..sorry my Claim popped up like  
that it's a long story...I feel for  
you...must be twisting in the  
wind...yikes! Hats what happens  
when you shame the innocent.

About 23 months it took to  
unbury your dirt...but it was  
worth it and we're ready. So  
next time you think about using  
that lying tongue of  
yours...don't. This hornets' nest  
is not a play-thing.



AT&T LTE 2:45 PM  
Dennis Details

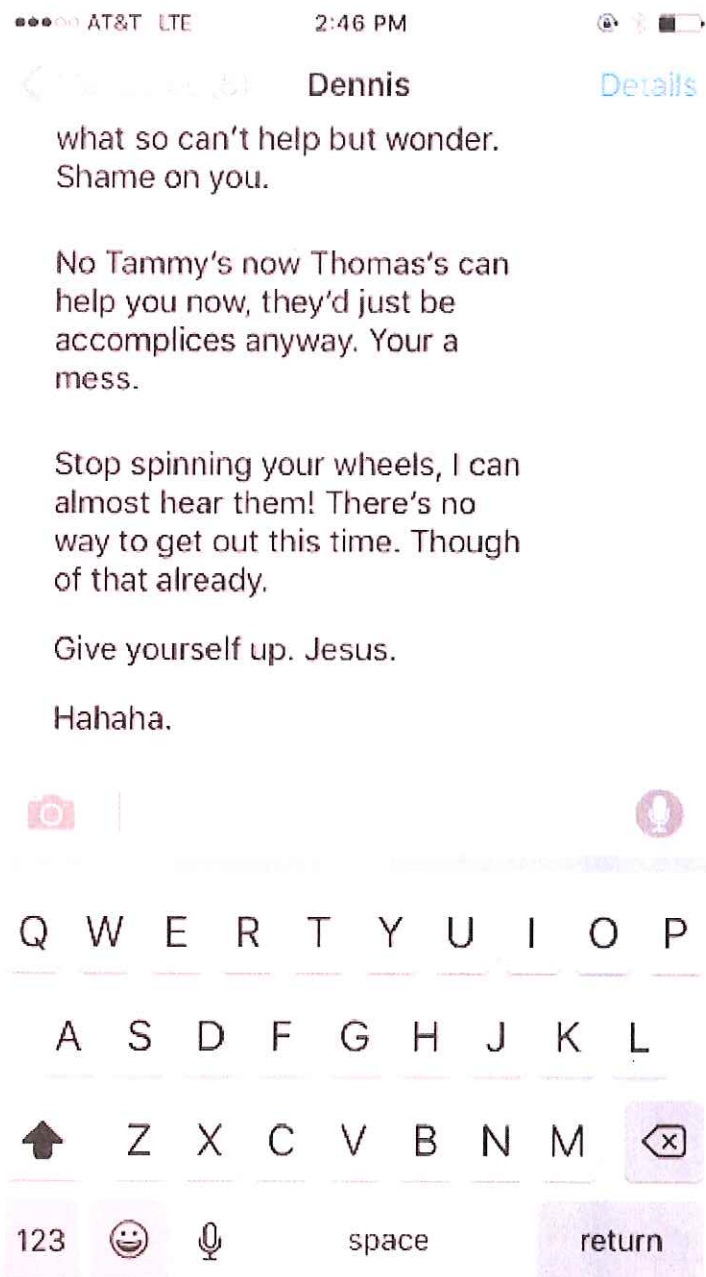
You sure have been busy!!! But don't forget, I was the first to Court, I've expanded the scope and breadth of this Court, and I'll be the last one standing. Facts don't lie and you have a lot of questions and people to answer to. I'm glad I'm not you!!!!

I wish I believe you were a praying man because some praying - for forgiveness - would help you, but probably too late.

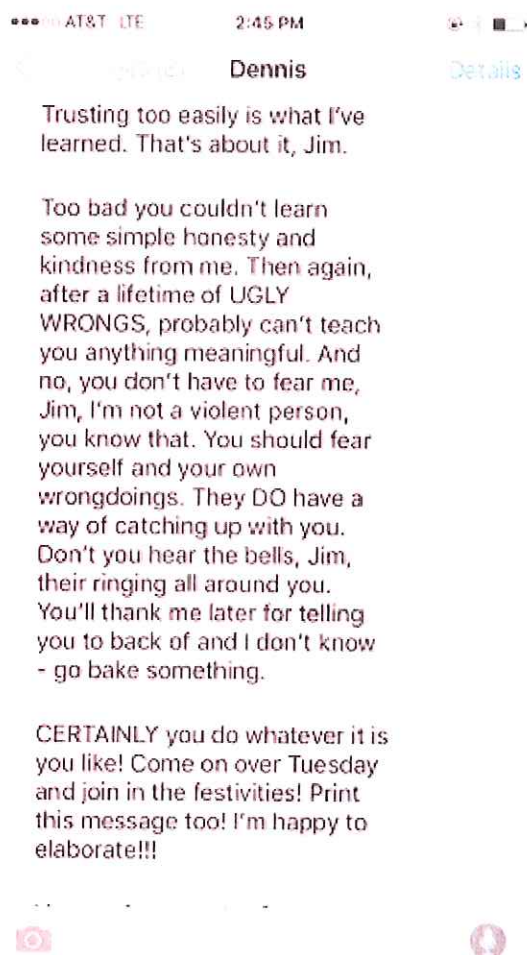
All these poor people Jim. And for what purpose? People from when before I was born. Were you born bad?

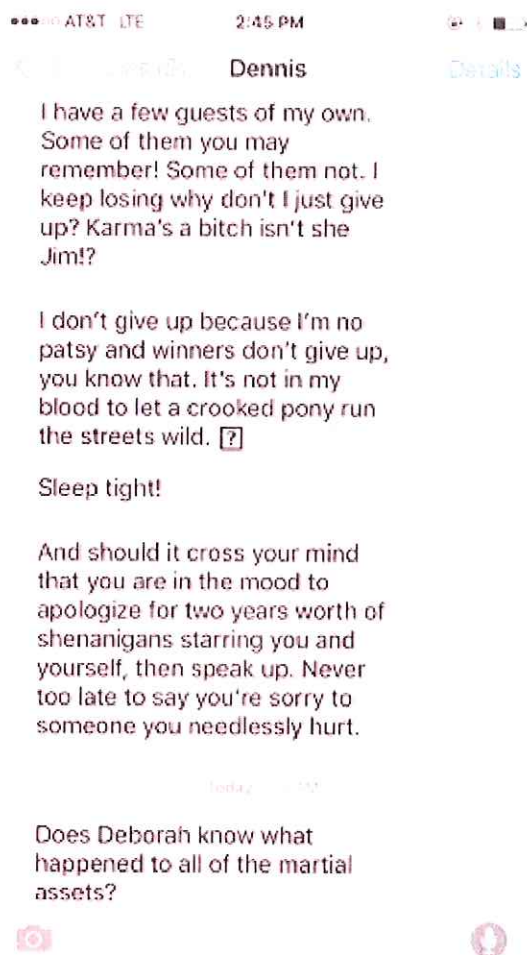
Sorry, let me stick to my point, don't utter my name. You really ought not. Look at the mess you've got yourself in already! If I had know you were a one trick, crooked pony, I'd of stayed as far away from you as possible.

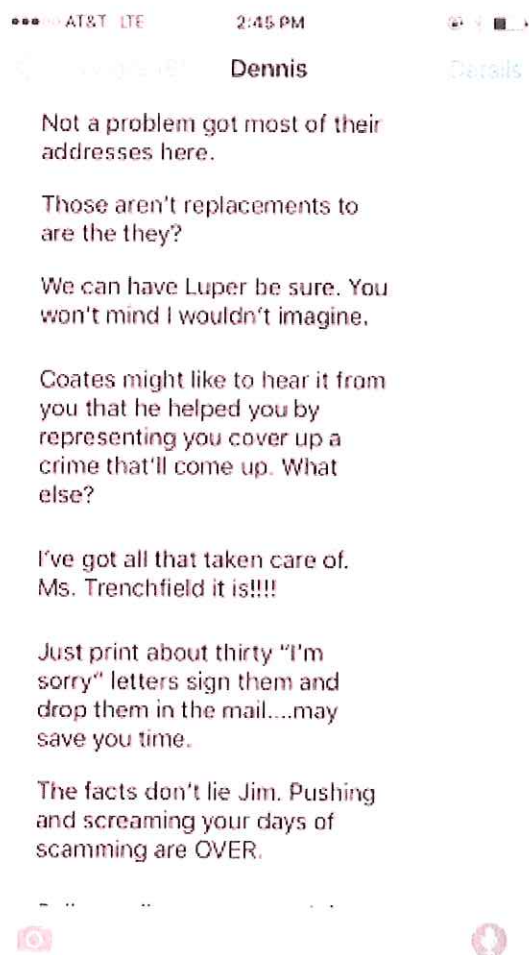


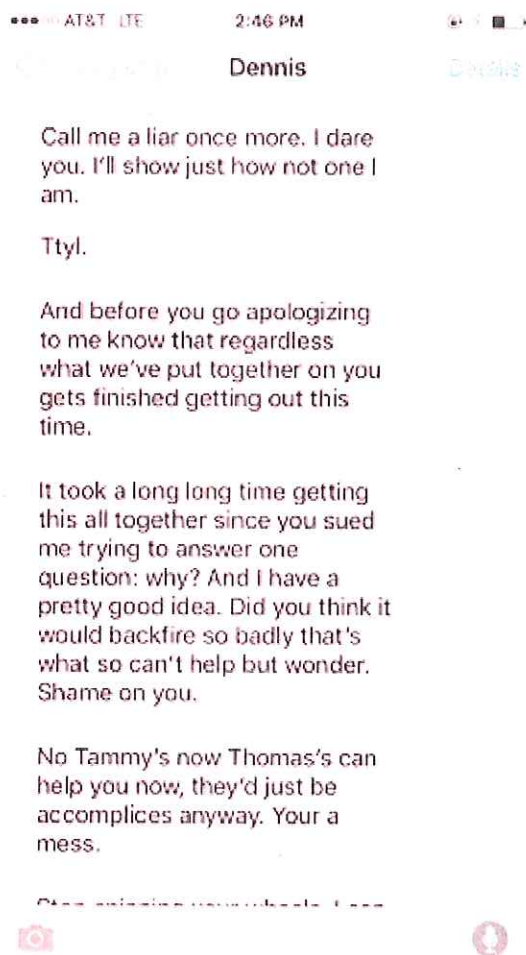














**Tammy Sossei**

**From:** Eamonn Foster <efoster@lawfirmvirginia.com>  
**Sent:** Friday, October 26, 2018 3:24 PM  
**To:** Tammy Sossei  
**Subject:** Re: Strickland contact

I spoke with my client. He is glad to hear that you finally have agreed to withdraw the motion. But he is disconcerted that it took this much effort to get to this point. I know Shannon Pecoraro informed you before you filed that the motion was late. I know I filed an objection that got the very positive attention of Mr. Shaia. I know that I have asked you for months to withdraw the motion with the threat that I'd be seeking attorneys fees. And I know that your efforts have led to my indigent client taking on additional attorney's fees to respond to your aggressive and irresponsible motion.

My attorney's fees at this point, just in connection with your motion, are in excess of \$1,800. My client is willing to withdraw his sanction motion IF you withdraw your motion and agree to pay \$600 in attorney's fees. That's a considerable discount, considering my fees will likely go up if I have to attend a hearing on the various motions, and any continuances which might come. It will also avoid any sanctions the court might impose sua sponte.

If you agree to these terms, then both gentlemen can walk away and consider this disastrous situation behind them. Discuss it with your client. Then please respond to me by the close of business Friday, November 2, 2018.

Enjoy your weekend.

Eamonn Foster, Esq.  
Woehrle, Dahlberg, Jones and Yao, PLLC  
P: 540-898-8881 (Fredericksburg)  
P: 804-261-2694 (Richmond)  
Sent from my iPhone

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On Oct 26, 2018, at 3:05 PM, Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)> wrote:

Mr. Foster,

I have been nothing other than polite to you, while you have accused me of "trolling", which the urban dictionary advises is distinctly other than polite.

Concerning your purported offer, I'm not in the office; however, I will provide the texts from Mr. Terry to Mr. Strickland early on attempting to bully Mr. Strickland into dropping the issue. I think better part of valor is for both of these gentlemen to simply go their separate ways. I will withdraw the Objection.

Enjoy your weekend.

Tammy L. Sossei, Esquire

Sent from my iPhone

On Oct 26, 2018, at 2:30 PM, Eamonn Foster <[efoster@lawfirmvirginia.com](mailto:efoster@lawfirmvirginia.com)> wrote:

I'm not asking you to speculate about your client's reasons. I do expect you to have a frank conversation with your client about why he called my client, and then I politely ask that you let me know if there is anything that I can do about it. It's not difficult. I did not expect this situation to take this long to resolve.

You keep mentioning professionalism and civility. Other than your mentioning it, I haven't seen you be a bit professional or civil to me and my client. Professionalism and civility are not shields to use to protect you when you have not conducted yourself appropriately. They are a requirement that you behave in a particular manner when addressing opposing counsel.

As for professional behavior, I was the attorney who reached out to you to schedule a hearing on YOUR motion. I was the one who asked you to set that hearing date. I was the one who waited patiently for you to do as had been agreed. And I was the one who brought to your attention that your client has violated multiple federal laws and the court order.

You, on the other hand, have filed a frivolous motion without the intention of following it through. While I may have pointed that out, such an act can hardly be unprofessional. You dragged this out unnecessarily and without good cause. You were the first to be curt, patronizing, and dishonest in your communications to me. You continue to refuse to communicate in a courteous manner to me, by wrenching ridiculous meanings from what I write, instead of addressing the failings of your client. And you still are the one leaving this case on the hook.

You were so free with advice early on, so let me give you my advice: pay my attorney's fees and withdraw the motion to extend the deadline. That's the second time I have made this offer. I expect a response by the close of business next Friday, November 2, 2018.

Eamonn Foster, Esq.  
Woehrle, Dahlberg, Jones and Yao, PLLC  
P: 540-898-8881 (Fredericksburg)  
P: 804-261-2694 (Richmond)  
Sent from my iPhone

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On Oct 26, 2018, at 1:21 PM, Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)> wrote:

Mr. Foster,

I politely responded to your email. I have no idea what most of your latest response means, other than it does not appear to be meant in a kind or professional manner.

As to a missed phone call, who knows. I refuse to jump to conclusions about what quite frankly may have been an issue of hitting the wrong button.

Enjoy your weekend.

Tammy L. Sossei, Esquire  
Sent from my iPhone

On Oct 26, 2018, at 1:06 PM, Eamonn Foster  
<[efoster@lawfirmvirginia.com](mailto:efoster@lawfirmvirginia.com)> wrote:

To confirm, your client made an unsolicited contact to my client, who is protected by the federal bankruptcy automatic stay, as well as the fair debt collections practices act, and your initial response is to misinterpret my comment and to clarify the obvious? Are you trolling me with your responses?

If I were you, I would start with an apology, and an answer to the question asked. I will repeat my question, so that you don't get lost: is there any particular reason your client called mine?

Eamonn Foster, Esq.  
Woehrle, Dahlberg, Jones and Yao, PLLC  
P: 540-898-8881 (Fredericksburg)  
P: 804-261-2694 (Richmond)  
Sent from my iPhone

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On Oct 26, 2018, at 12:55 PM, Tammy Sossei  
<[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)> wrote:

Mr. Foster,

Thank you for advising me that Mr. Terry's phone received a call from Mr. Strickland's phone. I assure you there is nothing that you personally can do for Mr. Strickland as he is represented by counsel in all matters.

Tammy L. Sossei, Esquire  
Sent from my iPhone

On Oct 26, 2018, at 11:38 AM, Eamonn Foster <[efoster@lawfirmvirginia.com](mailto:efoster@lawfirmvirginia.com)> wrote:

Is there any particular reason your client called my client today? I have a screenshot of his incoming call to my client's cell phone at 11:25 am this morning. Please let me know if there is something that I can assist him with.

Eamonn Foster, Esq.  
Woehrle, Dahlberg,  
Jones and Yao, PLLC  
P: 540-898-8881  
(Fredericksburg)  
P: 804-261-2694  
(Richmond)  
Sent from my iPhone

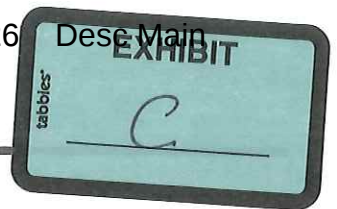
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by mistake and delete  
this email. Thank you.



**Tammy Sossei**

**From:** Eamonn Foster <efoster@lawfirmvirginia.com>  
**Sent:** Thursday, November 15, 2018 3:13 PM  
**To:** Tammy Sossei  
**Subject:** Re: Strickland calls again

Dec. 12, at noon, as you had advised. I take no pleasure in your consternation. I now know without a doubt what kind of attorney you are. I suspected it all along, but I have no hope now.

Eamonn Foster, Esq.  
Woehrle, Dahlberg, Jones and Yao, PLLC  
P: 540-898-8881 (Fredericksburg)  
P: 804-261-2694 (Richmond)  
Sent from my iPhone

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On Nov 15, 2018, at 3:10 PM, Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)> wrote:

Mr. Foster,

Please kindly advise me as to what date you will be rescheduling your motion for sanctions. Many thanks.

Regards,

Tammy L. Sossei, Esquire  
SOSSEI LAW, PC  
4114 E. Parham Road  
Suite C  
Richmond, Virginia 23228  
ph: (804) 593-4141  
fax: (804) 510-0585  
email: [tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)  
website: [www.sosseilaw.com](http://www.sosseilaw.com)  
Facebook: <https://www.facebook.com/TammySosseiEsquire/>

The firm congratulates Tammy Sossei on her selection  
as a 2018 SuperLawyer – Rising Star.

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**From:** Eamonn Foster <[efoster@lawfirmvirginia.com](mailto:efoster@lawfirmvirginia.com)>  
**Sent:** Thursday, November 15, 2018 3:08 PM  
**To:** Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)>  
**Subject:** Re: Strickland calls again

Can you seriously not make any effort to resolve the mess you made? You cause harm unnecessarily, I have given you opportunity after opportunity. You have attempted in the past to prove what kind of attorney you are. And time and time again you have shown what kind of attorney you are.

If you cannot make any reparations to my client, then I will modify the court date to an amenable time when I can show the court just the kind of attorney you are. If, however unlikely, you can make an offer to me, then there might not be a need for any hearing whatsoever.

Eamonn Foster, Esq.  
Woehrle, Dahlberg, Jones and Yao, PLLC  
P: 540-898-8881 (Fredericksburg)  
P: 804-261-2694 (Richmond)  
Sent from my iPhone

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On Nov 15, 2018, at 12:55 PM, Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)> wrote:

Mr. Foster,

Please kindly advise me as to what date you will be rescheduling your motion for sanctions. Many thanks.

Regards,

Tammy L. Sossei, Esquire  
SOSSEI LAW, PC  
4114 E. Parham Road  
Suite C  
Richmond, Virginia 23228  
ph: (804) 593-4141  
fax: (804) 510-0585  
email: [tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)  
website: [www.sosseilaw.com](http://www.sosseilaw.com)  
Facebook: <https://www.facebook.com/TammySosseiEsquire/>

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**From:** Eamonn Foster <[efoster@lawfirmvirginia.com](mailto:efoster@lawfirmvirginia.com)>  
**Sent:** Monday, November 12, 2018 7:41 PM  
**To:** Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)>  
**Subject:** Re: Strickland calls again

I've spoken with my client, who informed me that Mr. Strickland is not financially solvent and is very likely in worse shape than Mr. Terry is. You mentioned that so far you

were representing your client pro bono (or at least you intoned as much). So, let me ask you, what can you do to make this all go away? I agree that these two need to part ways, but your careless and unwarranted actions caused harm.

As an officer of the court, You should be held to a higher standard and take responsibility for your actions. I take no pride in seeking sanctions for my client's behalf, but you have left me little choice and offered no solutions. Please, make an offer to resolve all of the issues between these gentlemen.

Thank you.

Eamonn Foster, Esq.  
Woehrle, Dahlberg, Jones and Yao, PLLC  
P: 540-898-8881 (Fredericksburg)  
P: 804-261-2694 (Richmond)  
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On Nov 8, 2018, at 10:34 AM, Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)> wrote:

Mr. Foster,

I advised you in my email of October 25, at 4:17 that I was not available on November 28, due to previously scheduled trials in Henrico all day. Your email of October 26, at 3:24 refers to "additional continuances that might come". In any case, I am available on December 12 or January 23.

Thank you.

Regards,

Tammy L. Sossei, Esquire  
SOSSEI LAW, PC  
4114 E. Parham Road  
Suite C  
Richmond, Virginia 23228  
ph: (804) 593-4141  
fax: (804) 510-0585

email: [tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)

website: [www.sosseilaw.com](http://www.sosseilaw.com)

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**From:** Eamonn Foster <[efoster@lawfirmvirginia.com](mailto:efoster@lawfirmvirginia.com)>  
**Sent:** Wednesday, November 7, 2018 8:05 AM  
**To:** Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)>  
**Subject:** Re: Strickland calls again

I thought the better part of valor was that these two should part ways. Are you going to hold your client to that? Or are you going to force me to let the court decide this matter, increasing my attorney's fees and costs unnecessarily? Again.

If you are going to force me to litigate this simple and resolvable issue, what dates do you have available for a hearing? Of the upcoming available dates, I am available 11/28, and 1/9/19. If you are unavailable for either of these dates, please let me know what dates you are

available for, and I will see what I can do to accommodate you. But please understand I will set a hearing date; I will not let this languish for months and months without end.

Eamonn Foster, Esq.  
Woehrle, Dahlberg, Jones and Yao, PLLC  
P: 540-898-8881 (Fredericksburg)  
P: 804-261-2694 (Richmond)  
Sent from my iPhone

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On Nov 6, 2018, at 5:12 PM, Tammy Sossei  
<[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)> wrote:

Mr. Foster,

Thank you again for advising that it appears that Mr. Strickland's phone contacted Mr. Terry's phone. Without proof that there was an intention to call or any subsequent conversation related to the collection of a debt, I don't know that there is any violation. As text messages will show, Mr. Terry has threatened Mr. Strickland in the past.

It has been clear from Mr. Terry's behavior toward me & his text messages to Mr. Strickland that there is more ill will in this case than necessary. The tone of your emails suggests that this ill will colors any professional relationship toward me. Your latest demand is respectfully declined.

As I've advised you in the past, I am not available on November 28, having had hearings scheduled in Henrico for more than six months. Should you choose to proceed with your already filed motion for sanctions, I will file a response.

Thank you and enjoy your evening.

Regards,

Tammy L. Sossei, Esquire

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**The firm congratulates Tammy Sossei on her selection  
as a 2018 SuperLawyer – Rising Star.**

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**From:** Eamonn Foster <[efoster@lawfirmvirginia.com](mailto:efoster@lawfirmvirginia.com)>

**Sent:** Monday, November 5, 2018 2:11 PM

**To:** Tammy Sossei <[tammy.sossei@sosseilaw.com](mailto:tammy.sossei@sosseilaw.com)>

**Subject:** Strickland calls again

Ms. Sossei,

I'm sure you tire of hearing from me, but I hope you can imagine the frustration my client feels.

Your client, Mr. Jim Strickland, has contacted my client, Jay Terry, yet again. We have verified that he called my client twice now. Both you and your client know that I represent Mr. Terry. This is a violation of the fair debt collections practices act and the automatic stay. I warned you last time about this. Let this be fair warning that I will be filing a FDCPA and automatic stay violation on my client's behalf. Unless something can be worked out resolving all of the issues. I propose a payment of \$1,500 immediately and a guarantee that your client will not reach out to my client ever again. I will withdraw my sanctions motion and will withhold filing any other action on my client's behalf. As you know, both phone calls to my client carry a \$1,000 penalty each, plus attorney's fees and costs. \$1,500 is a reasonable offer, considering all that you and your client face in this matter.

Please let me know by the close of business tomorrow. Otherwise, I will prepare and file my actions on my client's behalf.

Eamonn Foster, Esq.  
Woehrle, Dahlberg, Jones and Yao, PLLC  
P: 540-898-8881 (Fredericksburg)  
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you have received this by mistake and delete this email.  
Thank you.